APPENDIX A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Helen Stacey
v. No. 2734 C.D. 2000

City of Hermitage Board of Appeals

Helen Stacey
v. Argued: October 9, 2001

City of Hermitage and City of
Hermitage Board of Appeals

Appeal of: Helen Stacey

BEFORE: HONORABLE DAN PELLEGRINI, JUDGE
HONORABLE BONNIE BRIGANCE LEADBETTER, JUDGE (P.)
HONORABLE JESS S. JIULIANTE, SENIOR JUDGE

OPINION BY
SENIOR JUDGE JIULIANTE FILED: November 8, 2001

Helen Stacey (Stacey) appeals from the November 6, 2000 order of the Court of Common Pleas of Mercer County (trial court) that denied her request for a permanent injunction. Stacey sought to enjoin the City of Hermitage (City) from demolishing her former residence at 1560 East State Street, Hermitage. We affirm.[1]

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[1] On review, we are limited to determining whether the trial court abused its discretion or committed an error of law.

APPENDIX A

In 1997, the City informed Stacey that her property was in violation of the City's property maintenance code and that, therefore, it was proceeding to have Her property declared a public nuisance. In 1998, the City adopted a new property maintenance code, which mirrors the Building Officials and Code Administrators National Property Maintenance Code (BOCA Code). Consequently, the City notified Stacey that her property was in violation of the BOCA Code and that any corrective action had to be completed within thirty days.

Stacey appealed to the City of Hermitage Board of Appeals (Board). The Board held a hearing on April 15, 1999 and, upon conclusion, determined that Stacey's structure was an attractive nuisance, unsafe for human habitation, littered with rubbish or garbage and uncontrolled weed growth, a fire hazard and in danger of collapse.

Stacey appealed. By order dated April 19, 2000, the trial court affirmed the Board's determination in all respects except one. It reversed the Board's determination that Stacey's property constituted a fire hazard. No appeal was taken from that order.

Thereafter, the City began proceedings to have the structure demolished. On June 1, 2000, the City informed Stacey that she had the right to cure the

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Licensed Beverage Ass 'n of Philadelphia v. Bd. of Educ. of the Sch. Dist. of Philadelphia, 669 A.2d 447 (Pa. Cmwlth. 1995).

structure's problems within thirty days and that if she failed to do so, demolition would follow. On June 30, 2000, Stacey's son, Raymond, requested an extension of time in which to complete the repairs. By that time, Raymond had distributed two loads of sand into the basement.[2] The City denied Raymond's request for an extension of time.

On August 30, 2000, Stacey filed a petition for special relief in the nature of a temporary injunction against the Board and the City. In her petition, Stacey alleged that she was arbitrarily denied a hearing before the Board on the issue of demolition, that she was not notified of her right to appeal the City's decision to demolish her residence, and that the structure had value and could be restored. [3]

The trial court issued an order granting the temporary injunction and set a permanent injunction hearing for September 5, 2000. At the conclusion of the hearing, the trial court determined that 1) it was bound by its April 19, 2000 order concluding that the structure was unsafe, 2) it would be unreasonable to repair the structure where it would have to be taken down to the studs and 3), Stacey was not entitled to a hearing before the Board because no timely appeal was filed.

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[2] Previous flooding caused the basement to cave.

[3] On August 31, 2000, Stacey executed a durable power of attorney naming Raymond as her legal representative. Raymond is participating in this appeal as amicus curiae.

Accordingly, the trial court entered a decree nisi vacating the temporary injunction.

Stacey took exceptions to the decree nisi. On November 6, 2000, the trial court entered an order affirming its prior decree. The following day, November 7, 2000, the City demolished the structure. This appeal followed.

Section 110.1 of the BOCA Code provides that

> [t]he code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to raze and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure.

(Reproduced Record "R.R." 28a) (emphasis deleted).

Stacey cannot now argue that the Board erred in concluding that her structure was an attractive nuisance, unsafe for human habitation, littered with rubbish or

garbage and uncontrolled weed growth and in danger of collapse. The April 19, 2000 trial court order affirmed the Board's determination and no appeal was taken. Stacey's failure to appeal the trial court's order precludes her from challenging that determination in this proceeding. See generally *First Nat 'l Bank v. Commonwealth*, 520 Pa. 244, 553 A.2d 937 (1989) (Commonwealth's failure to appeal tax resettlement order precluded consideration of whether bank's right to refund was limited to pro rata formulation in subsequent proceeding involving resettlement of bank's single excise tax).

Thus, as the trial court noted, the only issue at the September 5, 2000 injunction hearing was whether demolition of the structure was the appropriate remedy. In support of her position that the structure should not have been razed, Stacey contends that the City improperly denied her a hearing on the issue of demolition, denied her an opportunity to make repairs and/or sell the property, denied her access to the property to remove her personal items, and improperly razed the structure immediately following the trial court's November 6, 2000 order.

Section 111.1 of the BOCA Code provides that any person affected by a decision of the code official may appeal to the Board, provided that a written application is filed with twenty days after the decision, notice or order was served. (R.R. 28a) The trial court concluded, and we agree, that Stacey was well aware of this right, given the fact that she exercised her appeal

rights to challenge the Board's April 15, 1999 determination that her structure was unsafe, unfit for human habitation, etc. The record clearly demonstrates that Stacey did not appeal the City's notice of demolition and, in fact, asked for an extension of time to make repairs. Therefore, the trial court's conclusion that Stacey was not entitled to a hearing on the issue of demolition was correct.

She further contends that the City denied her an opportunity to make repairs or sell her property. The facts show that, realistically, Stacey was on notice as early as 1997 that her structure was in violation of the City's property maintenance code. Although Stacey was aware of this, she did not make any substantial repairs to bring the structure up to code. As noted by the trial court, the only attempt to make repairs occurred when Stacey trucked in two loads of sand.

Additionally, Stacey erroneously maintains that the City denied her the right to sell her property. Section 107.5 of the BOCA Code allows an owner to transfer ownership of property in limited circumstances. In order to transfer property, the grantor must furnish the grantee with a copy of the notice of violation issued by the city official and furnish the city official with a signed statement from the grantee acknowledging receipt of the notice of violation and accepting responsibility for the violations. (R.R. 27a) During the September 5, 2000 injunction hearing, Raymond Stacey testified that there were buyers interested in the property; however, he failed to provide documentation evidencing that

compliance with Section 107.5 of the BOCA Code was underway.

She further complains that the City denied her access to the structure to remove her personal items. The evidence established that the City first informed Stacey on June 1, 2000 that repairs were needed or demolition would take place. On August 1, the City informed Stacey that she had until August 17, 2000 to remove her personal items. Raymond testified that he was given an opportunity to remove personal items. (R.R. 123a) Moreover, he stated that he was at the property weekly, if not daily, despite the fact that the structure had been boarded and padlocked. (R.R. 131a) Thus, there is no merit to Stacey's argument that she did not have an opportunity to retrieve her personal items from the structure prior to its demolition.

And finally, Stacey maintains that the City acted hastily in razing the structure the day after the trial court denied her exceptions to the decree nisi. While we do not condone the City's haste, we cannot say that its actions were improper. To reiterate, the City informed Stacey in June of 2000 that demolition would occur if the repairs were not made. She was informed on August 1 that demolition would occur on August 28. Demolition was stayed pursuant to the temporary injunction. It is evident that Stacey was afforded due process throughout the proceedings and availed herself of the legal avenues available to her.

Stacey also maintains that the trial court erred in determining that the structure required demolition because it was a nuisance and unsafe. We disagree.

Stacey relies on several cases to support her position, all of which are distinguishable. In *Herrit v. Code Mgmt. Appeal Bd. of Butler*, 704 A.2d 186 (Pa. Cmwlth. 1997), Herrit was denied the opportunity to make repairs. Under former Section 110.2 of BOCA Code, where the cost of repairs exceeded 100 percent of the then-current value of the structure, repairs were deemed unreasonable and the structure was to be razed. On appeal, we determined that Section 110.2 of the BOCA Code was not rationally related to the public health, safety, or general welfare of the public because there was no rationale basis to deny the property owner the opportunity to make repairs regardless of the costs. As previously noted, Stacey was given ample notice and opportunity to make the required repairs but failed to take substantial steps to do so.

Stacey likewise relies on *Commonwealth v. Borriello*, 696 A.2d 1215 (Pa. Cmwlth. 1997), aff'd, 555 Pa. 219, 723 A.2d 1021 (1999), where we reversed a lower court's determination that the property owners were in violation of the Donora Borough Ordinance that required compliance with the BOCA Code. In Borriello, the property owners were charged with various violations of the BOCA Code. Their summary convictions, however, were based on other violations for which they were not charged.

On appeal, we reversed the lower court's determination. We concluded that the property owners were not afforded due process of law where they did not have fair notice of the charges upon which their convictions were ultimately based. We did not, however, conclude that the lower court erred in determining that demolition was the appropriate remedy to abate the nuisance. Presently, there was no evidence suggesting that Stacey faced summary offenses. More importantly, though, is the fact that Stacey was fully informed of the repairs necessary to bring her structure into compliance with the BOCA Code.

Stacey further relies on *Groff v. Borough of Sellersville*, 314 A.2d 328 (Pa. Cmwlth. 1974). In that case, Groff's building was declared a public nuisance and the lower court provided Groff with ninety days to make the necessary repairs. Because Groff did not comply with the repair order, the lower court determined that the only reasonable remedy was to raze the structure.

We reversed on appeal. Although we concluded that the record supported a fading that the structure was a public nuisance, we determined that the lower court erred in ordering that it be razed without first obtaining evidence that Groff could not or would not make the necessary repairs. Thus, the case was remanded for a more appropriate remedy.

In the case sub judice, there is sufficient evidence that Stacey had ample opportunity to make the

necessary repairs but failed to do so. Given the entire time frame involved, from 1997 to August of 2000, it is clearly evident that the record supports the trial court's finding that Stacey desired to sell the property rather than make the necessary repairs. (Finding of Fact No. 15) [4]

Of the cases reviewed, the present facts are more akin to those in *Keystone Commercial Prop., Inc. v. City of Pittsburgh*, 464 Pa. 607, 347 A.2d 707 (1975). In December of 1970, Keystone became the equitable owner of property previously owned by the Caplans, who were notified in June of 1970 that their property was in a dangerous condition and was being condemned. Keystone was fully aware of the property's status at the time it entered into the purchase agreement.

In March of 1971, Keystone sealed the building, delaying demolition for six months. During this time

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[4] Stacey further relies on *King v. Tp. of Leacock*, 552 A.2d 741 (Pa. Cmwlth. 1989). In that case, we concluded that the lower court erred in ordering demolition where there was no finding that the structure constituted a public danger and where the parties had made substantial repairs on the premises. We also commented that the property owners were not sufficiently informed of the repairs needed where they were told to bring the property "up to the standards of the general neighborhood." Id., 552 A.2d at 744. We found this standard to be too vague because the township did not have a building code from which to detuning the structural soundness of the building involved. Presently, Stacey did not present sufficient evidence demonstrating that she repaired the structure to the point that it was no longer unsafe for human habitation or in danger of collapse.

Keystone was to repair the dangerous conditions of the building; however, no repairs were made. Thereafter in October of 1972, Keystone indirectly received the same notice received by the Caplans in 1970. In November, the building was demolished.

In an equity action, Keystone sought to compel the City of Pittsburgh to restore the building or to pay the value of the building. The Supreme Court rejected Keystone's argument that it was not provided notice of the demolition via the June 1970 notice because it purchased the property subsequent to that time.

In rejecting this argument, the Supreme Court reviewed the purposes of the notice to demolish, one of which was to provide the property owner with a reasonable time to make repairs. The Court noted that Keystone was fully aware of its obligation to make repairs at the time it purchased the property, two years prior to demolition, and that Keystone used a six-month grace period to stay demolition. No repairs were made during this time. Thus, under those circumstances, Keystone was afforded ample opportunity to remedy the condition.

Stacey argues that Keystone is distinguishable because in that case, no repairs were made and presently Raymond was able to distribute two loads of sand into the basement of the structure. However, the extent of Stacey' s repairs falls woefully short of those in Groff and her reliance on that case is misplaced. We therefore conclude that the trial court did not err in determining

that demolition of the Stacey structure was the appropriate remedy.

Accordingly, we affirm. [5]

s/ Jess S. Jiuliante
JESS S. JIULIANTE, Senior Judge

[5] The Board's request for counsel fees is denied.

APPENDIX A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Helen Stacey

v. No. 2734 C.D. 2000

City of Hermitage Board of Appeals

Helen Stacey

v.

City of Hermitage and City of Hermitage Board of Appeals

Appeal of: Helen Stacey

ORDER

AND NOW, this 8th day of November, 2001, the November 6, 2000 order of the Court of Common Pleas of Mercer County is hereby AFFIRMED.

s/ Jess S. Jiuliante
JESS S. JIULIANTE, Senior Judge

Certified from the Record
November –8 2001
and Order Exit

APPENDIX B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Helen Stacey

v. No. 2734 C.D. 2000

City of Hermitage Board of Appeals

Helen Stacey

v.

City of Hermitage and City of Hermitage Board of Appeals

Appeal of: Helen Stacey

ORDER

NOW, January 28, 2002, having considered appellant's application for reconsideration, and the answers of appellee City of Hermitage and City of Hermitage Board of Appeals, the application is denied.

BY THE COURT

s/ James G. Colins
JAMES GARDNER COLINS, President Judge

Certified from the Record
JAN 29 2002
and Order Exit

APPENDIX C

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

HELEN STACEY, No. 129 WAL 2002

Petitioner

Petition for Allowance of Appeal from the Order of the Commonwealth Court

v.

CITY OF HERMITAGE AND CITY OF HERMITAGE BOARD OF APPEALS,

Respondents

ORDER

PER CURIAM

AND NOW, this 10th day of July 2002, the Petition for Allowance of Appeal is denied.

A True Copy John A. Vaskov
As of: July 10, 2002
Attest: s/ John A. Vaskov
Deputy Prothonotary
Supreme Court of Pennsylvania

APPENDIX D

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

HELEN STACEY, No. 129 WAL 2002

Petitioner

Petition for Reconsideration

v.

CITY OF HERMITAGE AND CITY OF HERMITAGE BOARD OF APPEALS,

Respondents

ORDER

PER CURIAM

AND NOW, this 24th day of September 2002, the Application for Reconsideration is denied.

A True Copy Patricia Honard
As of: September 24, 2002
Attest: s/ Patricia Honard
Chief Clerk
Supreme Court of Pennsylvania

APPENDIX E

CITY OF HERMITAGE PROPERTY MAINTENANCE CODE (BOCA NATIONAL PROPERTY MAINTENANCE CODE / 1966) --- SELECTED SECTIONS ---

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PM-105.3 Right of entry: The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

* * *

SECTION PM-106.0 VIOLATIONS

PM-106.1 Unlawful acts: It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, occupy, let to another or occupy or permit another. person to occupy any premises, property, structure or equipment regulated by this code, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code, or to fail to obey a lawful order of the code official, or to remove or deface a placard or notice posted under the provisions of this code.

PM-106.2 Penalty: Any person who shall violate a provision of this code shall, upon conviction thereof, be

subject to a fine of not less than [AMOUNT] nor more than [AMOUNT] or imprisonment for a term not to exceed [NUMBER] days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

PM-106.3 Prosecution: In case of any unlawful acts the code official shall institute an appropriate action or proceeding at law to exact the penalty provided in Section PM-106.2. Also, the code official shall ask the jurisdiction's legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person:

1. To restrain, correct or remove the violation or refrain from any further execution of work;
2. To restrain or correct the erection, installation, maintenance, repair or alteration of such
3. To require the removal of work in violation; or
4. To prevent the occupancy of the structure that is not in compliance with the provisions of this code.

SECTION PM-107.0 NOTICES AND ORDERS

PM-107.1 Notice to owner or to person or persons responsible: Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in Sections PM-107.2....

APPENDIX E

PM-107.2 Form: Such notice prescribed in Section PM-107.1 shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification
3. Include a statement of the reason or reasons why the notice is being issued; and
4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code

* * *

PM-107.4 Penalties: Penalties for noncompliance with orders and notices shall be as set forth in Section PM-106.2

PM-107.5 Transfer of ownership: It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of

violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

* * *

SECTION PM-110.0 DEMOLITION

PM-110.1 General: The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgement is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to raze and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to raze and remove at the *owner's* option; or where there has been a cessation of normal construction of any of any structure for a period of more than two years, to raze and remove such structure.

PM-110.2 Order: All notices and orders shall comply with Section PM-l07.0.

PM-110.3 Failure to comply: If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon

which the structure is located and shall be a lien upon such real estate.

PM-110.4 Salvage materials: When any structure has been ordered razed and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION PM-111.0 .0 MEANS OF APPEAL

PM-111.1 Application for appeal: Any person affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

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APPENDIX F

PENNSYLVANIA RULES OF APPELLATE PROCEDURE

-- SELECTED RULES --

RULE 311. INTERLOCUTORY APPEALS AS OF RIGHT

(a) General Rule. An appeal may be taken as of right and without reference to Pa.R.A.P. 341(c) from:

* * *

(4) *Injunctions.* An order granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify' injunctions, except for injunctions pursuant to Sections 3323(0 and 3505(a) of the Divorce Code, 23 Pa.C.S. §§ 3323(f) and 3505(a). A decree nisi granting or denying an injunction is not appealable as of right under this rule, unless ***the decree nisi*** (i) grants an injunction effective upon the entry of a decree nisi or ***(ii) dissolves a previously granted preliminary injunction effective upon the entry of a decree nisi.*** (emphasis added)

* * *

RULE 902. MANNER OF TAKING APPEAL

An appeal permitted by law as of right from a lower court to an appellate court shall be taken by filing a notice of appeal with the clerk of the lower court within

the time allowed by Rule 903 (time for appeal). ***Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal***, but it is subject, to such action as the appellate court deems appropriate, which may include, but is not limited to, remand of the matter to the lower court so that the omitted procedural step may be taken. (emphasis added)

Note

* * *

The notice of appeal is filed in the lower court and copies thereof, together with copies of the proof of service, are mailed and delivered to all who need to know of the appeal: other parties, lower court judge, official court reporter. ***The clerk of the trial court transmits one set of the filed papers to the appellate prothonotary (with the requisite filing fee).*** (emphasis added)

* * *

The new procedure has a number of advantages: (1) the taking of the appeal is more certain...because the appellant may toll the time for appeal by filing the notice of appeal in his local court house thereby eliminating the time lost in transmission of the appeal by mail; (2) the initial filing in the lower court raises an immediate caveat on the record before irreversible or undesirable action is taken on the faith of the judgment

appealed from;... (4) ***the new procedure necessarily eliminates the "trap" of failure to perfect an appeal, since the notice of appeal is self-perfecting....*** (emphasis added)

* * *

RULE 905. FILING OF NOTICE OF APPEAL

(a) Filing With Clerk. Two copies of the notice of appeal, the order for transcript, if any, and the proof of service required by Rule 906 (service of notice of appeal), shall be filed with the clerk of the trial court.... ***Upon receipt of the notice of appeal the clerk shall immediately stamp it with the date of receipt, and that date shall constitute the date when the appeal was taken, which date shall he shown on the docket.... A notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof.*** (emphasis added)

(b) Transmission to Appellate Court. ***The clerk shall immediately transmit*** to the prothonotary of the appellate court named in the notice of appeal ***a copy of the notice of appeal showing the date of receipt, the related proof of service and a receipt showing collection of any docketing fee....*** (emphasis added)

* * *

APPENDIX F

Note

Insofar as the clerk or prothonotary of the lower court is concerned, the notice of appeal is for all intents and purposes a writ in the nature of certiorari in the usual form issued out of the appellate court named therein and returnable thereto within the time prescribed by Chapter 19 (preparation and transmission of record and related matters).

* * *

RULE 1925. OPINION IN SUPPORT OF ORDER

(a) General Rule. ***Upon receipt of the notice of appeal the judge*** who entered the order appealed from, if the reasons for the order do not already appear of record, ***shall forthwith file of record at least a brief statement, in the form of an opinion, of the reasons for the order***, or for the rulings or other matters complained of, ***or shall specify in writing the place in the record where such reasons may be found.*** (emphasis added)

* * *

APPENDIX G

PENNSYLVANIA CRIMES CODE
18 Pa.CS -- SELECTED SECTIONS --

§ 4910. Tampering with or fabricating physical evidence

A person commits a misdemeanor of the second degree if, believing that an ***official proceeding*** or investigation ***is pending or about to be instituted***, he:

(1) ***alters, destroys***, conceals or removes any record, document ***or thing*** with intent ***to impair its verity or availability*** in such proceeding or investigation; or

(2) makes, presents or uses any record, document or thing knowing it to be false and with intent to mislead a public servant who is or may be engaged in such proceeding or investigation.

(emphasis added)

§ 4911. Tampering with public records or information

(a) Offense defined. —
A person commits an offense if he:

(1) knowingly ***makes a false entry in, or false alteration of, any record***, document or thing belonging to, or ***received*** or kept ***by, the government***

for information or record, or required by law to be kept by others for information of the government;

(emphasis added)

(2) makes, presents or uses any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in paragraph (1) of this subsection; or

(3) intentionally and unlawfully destroys, conceals, removes or otherwise impairs the verity or availability of any such record, document or thing.

(b) Grading. —An offense under this section is a misdemeanor of the second degree unless the intent of the actor is to defraud or injure anyone, in which case the offense is a felony of the third degree.